

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of September 19, 2017

**SUBJECT: The Glen Mixed Use Development PUD Zoning District and PUD Site Plan for City Council Approval
(1025 East Ann Street, 201, 213, 215 and 217 Glen Avenue)
File No. SP16-064 & Z16-002**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve The Glen Mixed Use Development Planned Unit Development (PUD) Zoning District and Supplemental Regulations, PUD Site Plan, and Development Agreement, with the condition that the five lots are combined before issuance of any permits.

STAFF RECOMMENDATION:

Staff recommends that the Glen Mixed Use Development PUD (Planned Unit Development) Zoning District and Supplemental Regulations be **approved** because the uses, physical characteristics, design features, and amenities proposed provide a beneficial effect for the City, could not be achieved under any other zoning classification, will not have a detrimental effect on public utilities or surrounding properties, provide adequate justification for deviation from the master plan, provide sufficient analysis and justification in the supplemental regulations, and provide acceptable vehicular and pedestrian circulation.

Staff recommends that the Glen Mixed Use Development PUD Site Plan be **approved** because the development would comply with the PUD Zoning District and Supplemental Regulations as well as all applicable local, state and federal laws, ordinances, standards and regulations, would limit the disturbance of natural features to the minimum necessary to allow reasonable use of the land, and would not cause a nuisance or a detrimental effect on the public health, safety and welfare.

LOCATION:

The site is located on the west side of Glen Avenue, from Catherine Street to East Ann Street, and includes one additional lot to the west on East Ann. It is in the Old Fourth Ward Historic District and the Central Area.

SUMMARY:

A proposal to rezone a 0.54 acre vacant site from PUD (Planned Unit Development District) to PUD, and to construct a nine-story, 139,903 square foot mixed use building with a 252 space, four-level underground parking garage. The site plan proposes 162 hotel rooms, 24 one-bedroom apartments, a 2,300 sq. ft. restaurant, and 5,135 sq. ft. of retail in three storefronts.

The site is currently zoned PUD which allows a building of the same height, but with a different mix of uses (primarily office and residential with some retail).

The proposal does not require any variances.

REZONING PETITION:

Current Zoning – The Glen PUD district was approved and its Supplemental Regulations were adopted as an amendment to the Zoning Ordinance and Zoning Map in November, 2007. The zoning designation and the Supplemental Regulations remain in effect until another zoning designation is approved. The current zoning allows 144 parking spaces below grade, three retail spaces and eight floors of office and residential, and two driveway curb cuts on Ann Street. The residential component of the PUD triggered a requirement for affordable housing, and the zoning includes a requirement that affordable housing units either be provided on site, through a monetary contribution, or a mix of both. The development agreement specifies an affordable housing contribution of \$1,058,000. The maximum height of the building under current zoning is 109 feet, four inches and nine stories. The maximum floor area ratio is 790%.



Figure 1: Current Zoning Districts

Proposed Zoning -- The proposed Supplemental Regulations were drafted to allow the following uses and configuration of the site:

- Four lower levels of vehicular and bicycle parking, including 252 vehicular spaces at 34 bicycle spaces.
- Ground floor retail or similar, second floor hotel or restaurant, third through seventh floor hotel, and two floor of predominantly apartments.
- Proposed setbacks are 0 feet at each lot line, and the height is a maximum of 109 feet, four inches.
- The maximum floor area ratio is 590.4%.
- Ten street trees are required on Glen, East Ann, and Catherine.

SITE PLAN PETITION:

Existing Conditions – The site is currently vacant and surrounded by a chain link fence, with the exception of 217 Glen, a parking lot for Angelo’s Restaurant. All buildings were demolished in 2009, and some slab foundations and parking areas remain.



Figure 2: Existing Conditions (2015)

Site Layout – The [proposed site plan](#) and [additional color renderings](#) show an almost-rectangular building with a jog on the west side, and frontage on East Ann Street, Catherine Street, and Glen Avenue.

Access and Parking – The main driveway is off East Ann Street, with a circular drop off area at grade beneath the building and a ramp leading down to four levels of underground parking. A secondary service drive is also located off of Ann Street for deliveries and trash and recycling pickup. Parking is provided in a 252 space parking structure with four levels below grade. The spaces include 171 regular, eight compact, 64 aisle spaces, six barrier free, and one barrier free van spot. Aisle parking will be controlled by valets. On the first level (L1), eight additional parking spaces are provided for Angelos, and will be signed as such. These spaces keep the Angelo’s site plan in compliance, which specifies eight off-site parking spaces.

The uses proposed in the building require 227 spaces, plus eight exclusively for Angelos. The PUD zoning allows the modification of the parking layout to accommodate the aisle parking spaces.

Thirty-four bicycle parking spaces will be provided, including 18 Class A spaces in a bike room on the Level L1 parking area, and 16 Class B spaces (six at the corner of Glen and East Ann, four along East Ann, and six at the corner of Glen and Catherine).

A portion of the sidewalk along Glen Avenue is shown on private property, as an arcade under the building. A sidewalk easement will be required, and the property owner will be responsible for its maintenance.

A drop off area is shown on Glen Avenue in front of the hotel for vehicles to pull into. The drop off is located within the city right of way and will have signage indicating drop off/pickup only.

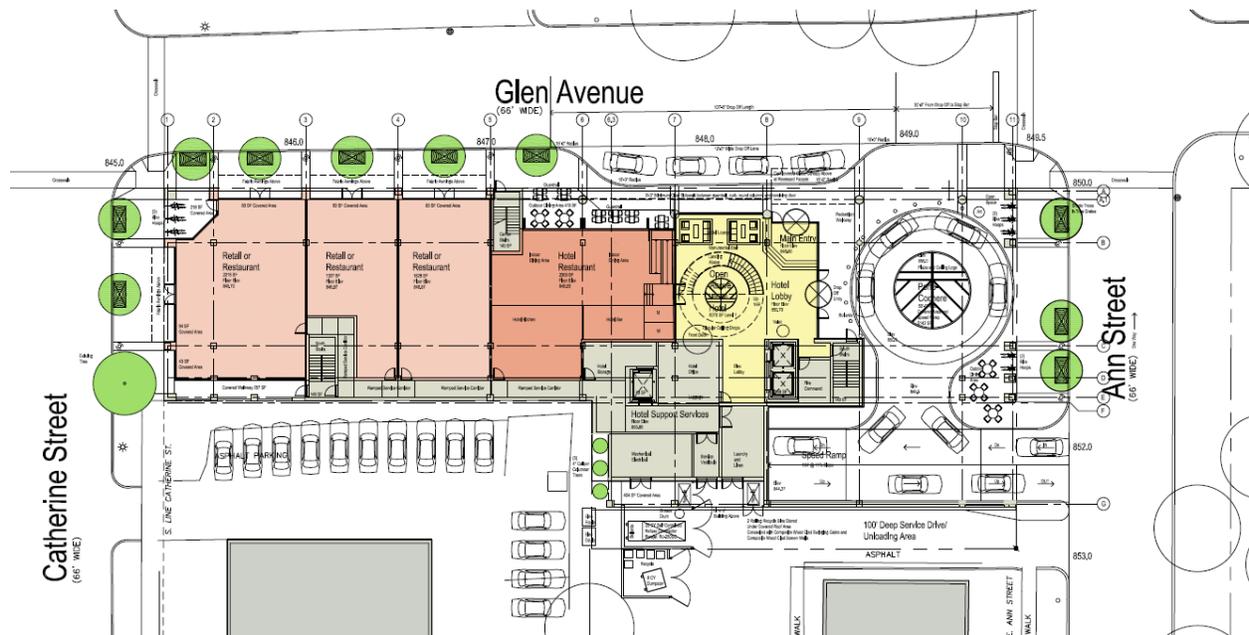


Figure 3: Site Plan Graphic

Traffic Study – A [traffic study](#) has been prepared for the proposed development and has been reviewed by city traffic engineering staff. The study report shows an increased delay at signalized intersections near the development due to the new trips generated. To mitigate these delays, the petitioner has agreed to provide one Gridsmart System each at the intersection of Catherine Street and Glen Avenue and at the intersection of East Ann and Glen.

Natural Features – Two Black Walnut landmark trees (20 inches and 24 inches) exist on the site and are located near the west property line, south of the Angelo's parking lot. Mitigation is proposed per City Code: three Crimson Spire red oaks of 4-inch caliper are proposed to be planted on site and a cash contribution for off-site plantings will be made for half of the required mitigation trees. No other natural features exist on the site. A total of ten new street trees are proposed along Catherine, Ann and Glen.

Landscaping, Screening, Buffers – A conflicting land use buffer (CLUB) is required for trash and recycling containers located next to residential uses. A nine foot setback is shown on the north side of the site's trash area with arborvitae for screening, and no buffer is proposed on the west side where the trash area abuts the neighboring site's trash area. These modifications are part of the PUD.

Storm Water Management – Management of a 100-year storm event volume is proposed, plus an additional 20% capacity because infiltration of stormwater to the ground is not permitted due to clay soil conditions, soil contamination and groundwater elevations. Storm water will be captured by a roof collection system and piped to an underground detention tank under the service drive that will drain to an existing storm sewer in Catherine Street.

Building Design and Materials – The site plan indicates a modern brick building with a two-story base with a large amount of glass (tinted on the second floor, clear on the first) and a projecting metal cornice/canopy, a prominent hotel entry, a hotel restaurant with a recessed outdoor dining area, and three retail or restaurant storefronts on Glen Avenue. The third through ninth stories are clad in 4”x12”x4” brick veneer and tinted glass with an area of pre-cast concrete on the west elevation and mechanical penthouse, and some silver painted corrugated metal.

The building is 109.33’ tall, and built to the sidewalk on the three street fronts. The southeast corner of the building at East Ann and Glen is stepped down to seven stories/73’ and a two-story west wing (27’) buffers the proposed building from the existing buildings to the west. Several rooftop terraces are included. Design information and color renderings [may be found here](#).

Environmental Contamination – Per documents submitted to the Historic District Commission, a [Baseline Environmental Assessment](#) prepared in 2014 indicates that the site is a “facility” because numerous hazardous substances were found in the soil and groundwater exceeding residential land use clean up criteria. The contamination was probably caused by previous gas station (1948-2007), and dry cleaner (1938-1962) businesses at 201 Glen. Leaking underground storage tanks on site have been removed.

Park Contribution – The petitioner is making a contribution of \$14,800 to be used to improve Riverside Park, Fuller Park, Broadway Park, or the Farmers Market.

SITE PLAN DATA ANALYSIS:

	EXISTING	PROPOSED
Zoning District	PUD (Glen Ann Place)	PUD (The Glen Mixed Use Development)
Lot Area	0.54 acres (23,573 sq ft)	0.54 acres (23,573 sq ft)
Density or FAR	790% FAR MAX	593% FAR
Floor Area	186,111 sq ft MAX	139,903 sq ft MAX
Setback: Front (Catherine)	0 ft	0 ft
Setback: Front (Glen)	0 ft	0 ft
Setback: Front (E. Ann)	0 ft	0 ft
Height	109.33 ft MAX	109.33 ft MAX
Open Space	None	None
Land Uses	Office, Residential, Retail	Hotel, Residential, Retail, Restaurant
Vehicle Parking	144 spaces	252 spaces
Bicycle Parking	18 Class A, 18 Class B, 30 Class C (66 total)	18 Class A, 16 Class B spaces (34 total)

LAND USE ANALYSIS (SURROUNDING LAND USES AND ZONING):

	LAND USE	ZONING
NORTH	University Parking Garage	R4C (Multiple-Family Dwelling District)
EAST	Commercial (Angelo's) and Surface Parking	C1A (Campus Business District) and R4C (Multiple-Family Dwelling District)
SOUTH	Residential	R4C
WEST	Commercial and Residential	C1 (Local Business District) and R4C

CITIZEN PARTICIPATION:

The applicant held a meeting for citizens regarding the proposed rezoning and site plan on September 18, 2015 and provided a [summary report](#) as required. Approximately 20 people attended the meeting in addition to the project team.

PLANNING HISTORY:

PUD zoning was approved by City Council for the site in 1996. The Glen Ann Place PUD Zoning District and PUD Site Plan were approved in 2001 for a five-story mixed-use building at 201-213 and 215 Glen Avenue. At that time, an existing gas station, located at the northwest corner of Glen Avenue and Ann Street, had been continuously operating for at least 70 years. Two identical residential dwellings, located mid-block on Glen Avenue between Ann and Catherine Streets, were constructed circa 1920. The lot on East Ann had a building with a restaurant.

In May 2004, an administrative amendment was approved to extend the PUD site plan expiration date by two years, to April 2006.

In 2005 a new Glen Ann Place PUD Zoning and Site Plan was approved by City Council for a larger 10-story building with the original three lots plus 217 Glen and 1025 East Ann. The application was denied by the Historic District Commission after City Council approval, and a lawsuit resulted in a consent judgement to build a nine-story building in 2007. This was amended in 2011, but the site plan expired in November, 2012. The structures on the site were demolished in 2007, and the site has since been vacant.

In November, 2015 the Historic District Commission (HDC) denied an application for a Certificate of Appropriateness to construct a nine-story building, stating that it eliminated historic open space and setbacks, was immense in scale, and was out of context with the historic precedent for residential and commercial buildings on this site and in the Old Fourth Ward Historic District. The petitioner then applied for a Notice to Proceed from the HDC. A notice to proceed is the only mechanism under which the HDC may approve work that is inappropriate. On December 10, 2015 the Historic District Commission issued a notice to proceed for construction of the current project on the basis that the site's environmental contamination constitutes a hazard to the safety of the public, and that construction of the project would remove the hazard.

CITY MASTER PLAN:

Seven documents constitute the elements of the City Master Plan:

1. Sustainability Framework (2013)
2. Land Use Element (2009)
3. Downtown Plan (2009)
4. Transportation Plan Update (2009)
5. Non-motorized Transportation Plan (2007) and Update (2013)
6. Parks and Recreation Open Space Plan (2016-2020)
7. Natural Features Master Plan (2004)

Chapter Seven of the [Master Plan: Land Use Element](#) addresses the portion of the Central Area that is outside of Ann Arbor's downtown, including the project site. The Plan recommends that commercial-office uses for the northwest corner of Glen Avenue and Ann Street, and multiple-family is recommended for the remainder of the Glen Avenue block between Ann and Catherine Streets. This reflects the uses found in the structures on the block before they were demolished. The Plan encourages sensitive, attractive, and innovative development and redevelopment in downtown Ann Arbor and in adjacent neighborhoods and seeks to pay special attention to the interface zones between central Ann Arbor and residential neighborhoods, insuring that projects in these areas both contribute to downtown liveliness and help buffer established neighborhoods from further erosion.

Issues identified in the Central Area chapter that apply to this site include neighborhood preservation due to the Central Area's proximity to downtown commercial areas and the University; the impact of redevelopment on surrounding land uses; tension between residential neighborhoods and expanding commercial development; and out-of-scale construction where houses are overshadowed by larger commercial, residential or institutional building that is out of scale with existing surrounding development. The Plan's goals for the Central Area include

Goal A – To promote sound and attractive residential neighborhoods which meet the housing needs of the current and future population, which are adequately served by urban services, infrastructure and facilities and which conserve environmental quality.

Goal B – To encourage sensitive, attractive, and innovative development and renovation in downtown Ann Arbor and in adjacent neighborhoods.

A problem identified in the historic preservation section of the Plan is the existing site plan process, which does not encourage creative design in evolving neighborhoods with respect to the character of the existing districts. Objective 5 under Historic Preservation Goals says:

Where new buildings are desirable, the character of historic building, neighborhoods and streetscapes should be respectfully considered so that new buildings will complement the historic, architectural and environmental character of the neighborhood.

REZONING ANALYSIS:

Changes to the text or map of the Zoning Ordinance (Chapter 55 of the Ann Arbor City Code) may be made pursuant to Sections 5:107 and 5:108. To assist the Planning Commission and City Council with their decision, applicants provide a [petition](#) with justifications in support of the request. The petition addresses:

- The current zoning and history of the site.
- The objective, purpose, and beneficial effect of the PUD for the city.
- Why this beneficial effect cannot be achieved under any other zoning.
- Why the uses proposed will not have a detrimental effect on public utilities and surrounding properties.
- How the proposed PUD is consistent with the Master Plan Land Use Element recommendation
- Vehicular and pedestrian circulation.
- Disturbances to natural or historical features and why this disturbance is necessary.
- Proposed modifications to the City Code.

As condensed into the Supplemental Regulations, the PUD zoning petition says the district provides:

- Innovative design including hotel-like amenities to apartment dwellers, space for conference, meeting or personal functions, reestablished commercial uses on the ground floor, and a design that steps down on the ends to reduce the building mass;
- Economical land use by cleaning up existing environmental site contamination from a dry cleaner and a gas station formerly located on the site, and providing a variety of services in one location in an energy efficient building that meets LEED Silver standards;
- Hotel, retail, and restaurant employment opportunities and shopping particularly suited to the needs of the residents of the city;
- The reuse of an existing vacant site which contributes to the desired character and form of an established neighborhood by providing a transition from single- and multi-family residential structures in the Old Fourth Ward neighborhood to the large University of Michigan buildings across Glen and Catherine Streets.

Staff Comments – The PUD zoning petition compares the proposed PUD zoning to C1A/R (Campus Business Residential) zoning. C1A/R and all of the C1 districts (C1, C1A, C1A/R, C1B) are designed to allow mixed uses to serve the residents within and nearby to that particular district location. Retail shops ideally providing goods necessary for day-to-day needs, as described in the C1 district intent, are permitted. Business, financial, medical and dental offices are also permitted. And, all forms of residential, including single and two-family, townhouses, and multiple-family apartments are permitted. C1A/R allows 300% FAR and has no height limit. It allows downtown-like development surrounding the University of Michigan campus. It is the zoning district that is closest to allowing the proposed uses and area, height, and placement standards of The Glen Mixed Use Development.

The Land Use Element recommendation for the site calls for commercial on the south half (former gas station site) and residential on the north (where single-family houses were previously located). The proposed PUD combines commercial and residential uses, though the balance is skewed toward commercial (hotel, restaurant, and retail).

The petitioner is not apply for brownfield tax increment financing to pay for remediation of site contamination. The excavation required for four floors of underground parking would remove the majority of the contamination, though the soil may need to be trucked to disposal site equipped to deal with contaminated soil. Concerning the types of contamination found on the site, the chemicals associated with the dry cleaner are especially troublesome since they may migrate and affect nearby residential structures.

SERVICE UNIT COMMENTS:

Planning – The petition includes a \$500,000 voluntary contribution to the city’s affordable housing fund proposed by the petitioner. The provision of affordable housing or a payment in lieu are not required by the PUD standards since the project is not 20% or more residential use. Since there are no ties to the PUD zoning, the contribution is not included in the Supplemental Regulations. It is, however, included in the project’s Development Agreement.

The site is appropriate for mixed-use development. The area between the Old Fourth Ward neighborhood and the University of Michigan Medical Center is well suited to the proposed uses, since there is a lack of retail, restaurant, and hotel nearby.

The Draft Development Agreement and Draft Supplemental Regulations have not yet been reviewed by the city attorney’s office. This review takes place after City Planning Commission makes a recommendation and before City Council considers the petition.

Other Service Units – Engineering has one detail outstanding on one plan sheet that must be corrected before the site plan is considered by City Council.

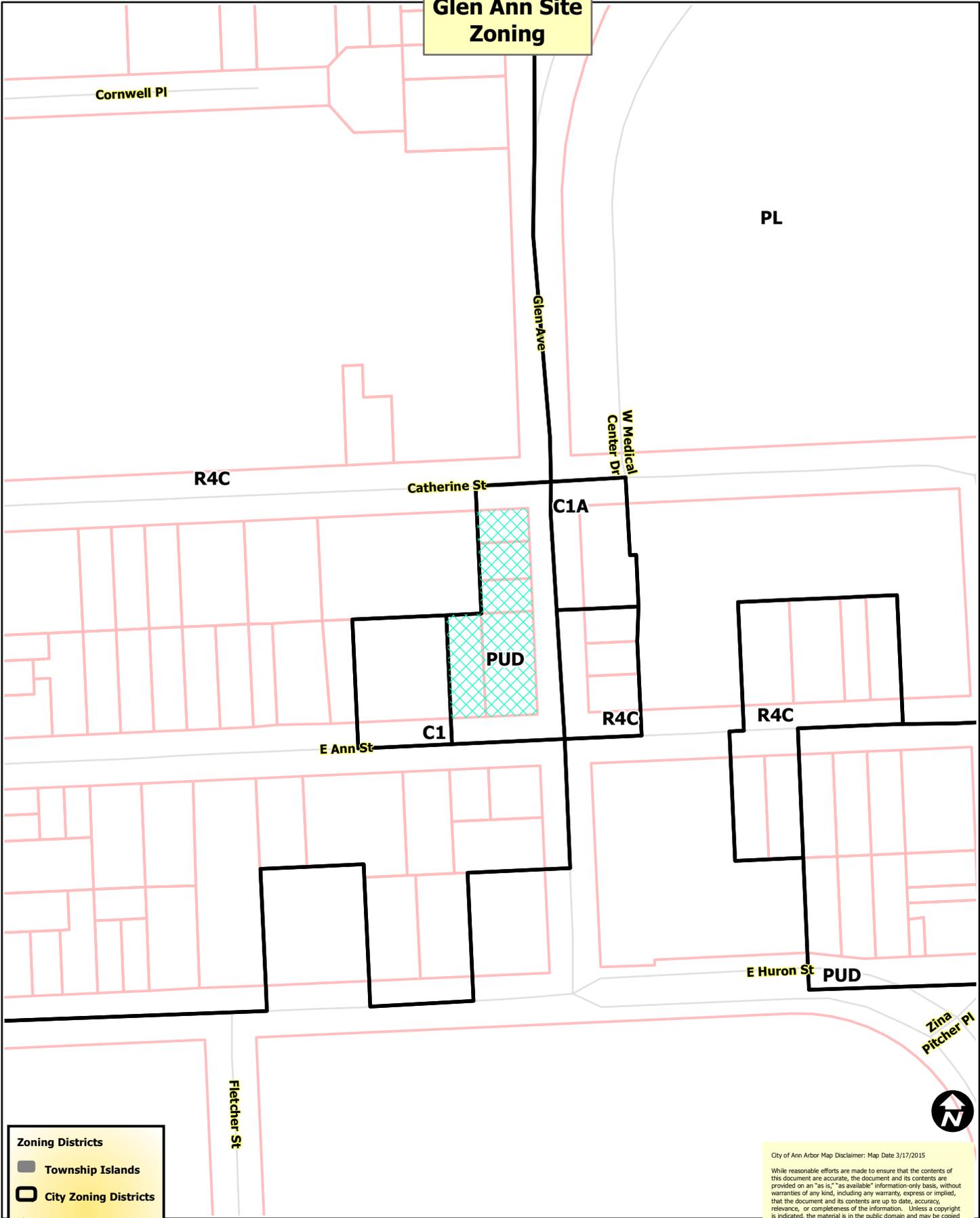
Prepared by Jill Thacher
Reviewed by Brett Lenart
9/15/17

Reference Documents: [PUD Zoning Petition 091417](#)
 [Site Plan 080317](#)
 [Architectural Drawings 080317](#)
 [Architectural Renderings 080317](#)
 [Baseline Environmental Analysis 050514](#)

Attachments: Zoning Map
 Aerial Photo
 DRAFT Development Agreement 091517
 DRAFT Supplemental Regulations 091517

c: Craig Singer, Catherine Ann Development Company, LLC (Owner)
Robert Wagner, Midwestern Consulting, LLC (Project Engineer)
Brad Moore (Petitioner’s Agent)
Systems Planning
Project No. SP16-064, Z16-002

Glen Ann Site Zoning



Zoning Districts

- Township Islands
- City Zoning Districts
- Railroads
- Parcels
- Huron River

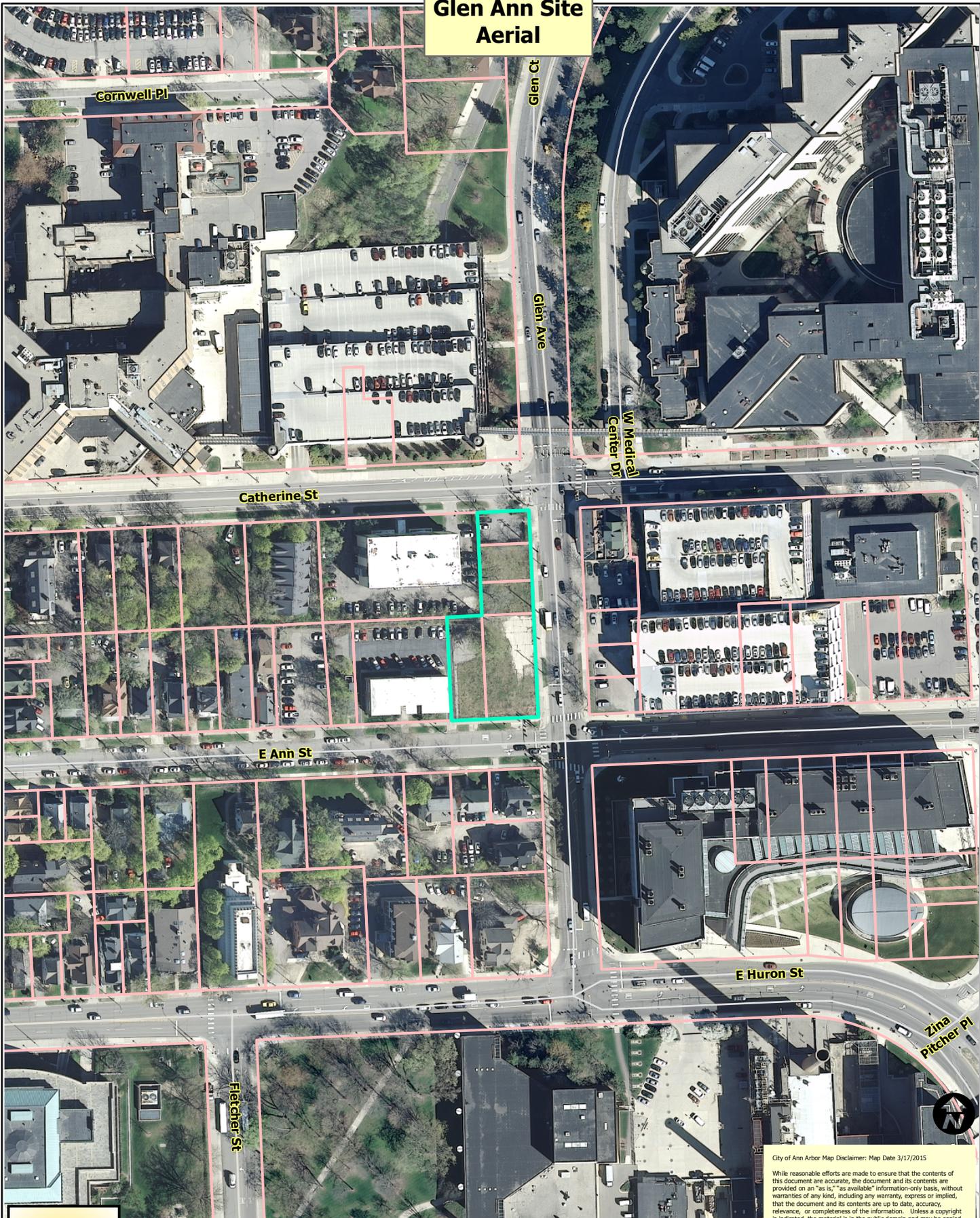


City of Ann Arbor Map Disclaimer: Map Date 3/17/2015

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Glen Ann Site Aerial



-  Railroads
-  Parcels
-  Huron River

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Glen Ann Site Aerial



Catherine St

W Medical Center Dr

Glen Ave

E Ann St

-  Railroads
-  Parcels
-  Huron River



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THE GLEN MIXED USE DEVELOPMENT DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 20__, by and between the City of Ann Arbor, a Michigan Municipal Corporation, with principal address at 301 East Huron Street, Ann Arbor, Michigan 48107, hereinafter called the CITY; and Catherine Ann Development Company LLC, a limited liability company, with principal address at 121 W. Long Lake Road, 3rd Floor, Bloomfield Hills, MI 48304-2720, hereinafter called the DEVELOPER, witnesses that:

WHEREAS, the DEVELOPER owns certain land in the City of Ann Arbor, described below and site planned as The Glen Mixed Use Development PUD Site Plan, and

WHEREAS, the DEVELOPER has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as The Glen Mixed Use Development PUD Site Plan , and desires planned unit development site plan and development agreement approval thereof, and

WHEREAS, the DEVELOPER desires to build or use certain improvements with and without the necessity of special assessments by the CITY, and

WHEREAS, the CITY desires to insure that all of the improvements required by pertinent CITY ordinances and regulations be properly made, and that the DEVELOPER will install these improvements prior to any permits being issued.

THE DEVELOPER(S) HEREBY AGREE(S):

(P-1) To prepare and submit to the CITY for approval plans and specifications ("the Plans") prepared by a registered professional engineer for private storm water management systems, public water mains, and sidewalks ("the Improvements") provided that no work on said Improvements shall be commenced until the Plans have been approved by the City Administrator or designee, and until such other relevant information to CITY service areas as shall be reasonably required has been provided.

(P-2) To construct all improvements set forth in Paragraph P-1 of this Agreement in accordance with the approved Plans and to repair all defects in the improvements that occur within one year from the date of acceptance of the Improvements by the CITY, commencing on the latest date of the acceptance of any Improvements by the CITY. If the DEVELOPER fails to construct the improvements, the CITY may send notice via first class mail to the DEVELOPER at the address listed above requiring it to commence and complete the improvements in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the DEVELOPER, if the DEVELOPER does not complete the work within the time set forth in the notice. Every owner of a portion of the property, including co-owners of condominium units, shall pay a pro-rata share of the cost of the work. That portion of the cost of

the work attributable to each condominium unit shall be a lien on that Property and may be collected as a single tax parcel assessment as provided in Chapter 13 of the Ann Arbor City Code.

(P-3) To furnish, within 30 days of completion, an engineer's certificate that the construction of the public improvements set forth in Paragraph P-1 above have been completed in accordance with the specifications of the CITY in accordance with the approved plans. The engineer's certificate will cover only those items the DEVELOPER'S engineer inspects.

(P-4) Prior to the issuance of building permits, to deposit with a mutually acceptable escrow agent fully executed documents in a form acceptable to the CITY, which will convey, upon delivery to the CITY, easements for the construction and maintenance of public sidewalks. The escrow agreement shall provide for delivery of the documents to the CITY solely upon the condition that the CITY has accepted the public improvement to be conveyed by the easement.

(P-7) To install all water mains pursuant to CITY approved plans and specifications, necessary to connect the site with existing CITY systems adjacent to the site prior to the issuance of any building permits.

(P-11) To indemnify and hold the CITY harmless from any claims, losses, liabilities, damages or expenses (including reasonable attorney fees) suffered or incurred by the CITY based upon or resulting from any acts or omissions of the DEVELOPER, its employees, agents, subcontractors, invitees, or licensees in the design, construction, maintenance or repair of any of the Improvements required under this Agreement and the approved site plan.

(P-12) To cause to be maintained General Liability Insurance and Property Damage Insurance in the minimum amount of \$1,000,000 per occurrence and naming the CITY as named insured to protect and indemnify the CITY against any claims for damage due to public use of the public improvement(s) in the development prior to final written acceptance of the public improvement(s) by the CITY. Evidence of such insurance shall be produced prior to any construction of improvement and a copy filed with the City Clerk's Office and shall remain in full force and effect during construction of the public improvement(s) and until notice of acceptance by the CITY of the Improvements.

(P-16) For the benefit of the residents of the DEVELOPER'S development, to make a park contribution of \$14,880 to the CITY Parks and Recreation Services Unit prior to the issuance of certificates of occupancy for improvements to Riverside Park, Broadway Park, Fuller Park, or the Farmers Market.

(P-17) To deposit, prior to any building permits being issued, a street tree planting escrow account with the Parks and Recreation Services Unit in the form of a check payable to the City of Ann Arbor. The escrow amount shall be based on the CITY policy in effect at that time and is to include all on-site public streets. The City Administrator may authorize the DEVELOPER to install the street trees if planted in accordance with CITY standards and specifications. If the street trees are found to be acceptable by the CITY, the escrow amount will be returned to the DEVELOPER one year after the date of acceptance by the CITY.

(P-20) To construct, repair and/or adequately maintain on-site storm water management system. If the DEVELOPER fails to construct, repair and/or maintain the private storm water management system, the CITY may send notice via first class mail to the DEVELOPER at the address listed above, requiring it to commence and complete the items stated in the notice

within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the DEVELOPER if the DEVELOPER does not complete the work within the time set forth in the notice.

(P-22) After construction of the private on-site storm water management system, to commission an annual inspection of the system by a registered professional engineer evaluating its operation and stating required maintenance or repairs, and to provide a written copy of this evaluation to the CITY Public Services Area.

(P-26) That traffic mitigation measures in the Glen Avenue and East Ann Street and Glen Avenue and Catherine Street intersections will be beneficial to the DEVELOPER'S property and, therefore, to pay the CITY \$43,540 for its share of the cost for traffic mitigation measures, which may include, but are not limited to one or more of the following:

- a) Installation of Gridsmart systems at each intersection with network connection to the CITY traffic signal system.
- b) Other less traditional measures, which will similarly mitigate excess traffic, flow at the intersection with similar benefit to the DEVELOPER'S property by facilitating decreased use of automobiles and increased use of alternate modes of transportation. These measures may include, but are not limited to, park and ride lots, bicycle and pedestrian facilities, and transit improvements.

The DEVELOPER(S) will pay to the CITY, within 90 days of written notice of commencement of engineering design leading to construction or purchase order for materials, its share of the cost of the improvements.

The CITY has the right, in its sole discretion, to choose which traffic mitigation measures it will implement. However, the CITY agrees that it will not charge the DEVELOPER for more than \$43,540 as set forth above, of the traffic mitigation measures the CITY finds necessary to address the impact of the DEVELOPER'S development.

(P-27) To design, construct, repair and maintain this development in accordance with the provisions of Chapter 119 (Noise Control) to ensure that any noise emanating from said development will not impact nearby residents or businesses. In addition, DEVELOPER shall review existing noise sources surrounding said development and incorporate necessary design and construction techniques to ensure that future tenants will not be exposed to noise sources in violation of Chapter 119.

(P-28) To submit signed and sealed drawings to the CITY reflecting the building elevations, aesthetics, and materials approved by City Council and to construct all buildings consistent with said elevation drawings. If the DEVELOPER proposes any substantive changes to the approved building elevations, aesthetics, or materials, that those changes be submitted to the City Council for approval. Nonmaterial changes to the approved building elevations, aesthetics, or materials may be approved by the Planning and Development Services Manager or designee.

(P-29) To remove all discarded building materials and rubbish from the development at least once each month during construction of the development improvements, and within one month after completion or abandonment of construction.

DEVELOPERDEVELOPER

(P – 30) As part of the application for the first building permit, to provide documentation from an independent, qualified professional that verifies the building has been designed to achieve a minimum of four points under the U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) Energy & Atmosphere Credit No. 1, based on the most recent version in effect at the date of this agreement. Compliance with this requirement shall be verified and documented by the independent, qualified professional using an industry standard software energy modeling tool (EQUEST or equivalent).

(P-31) As a requirement of the PUD zoning district consistent with Ann Arbor City Code, Chapter 55, Section 5:80(6)(a)(ii), the Project must achieve LEED Silver certification. Within one year of receiving the final Certificate of Occupancy. The DEVELOPER will provide documentation from an independent, qualified professional that verifies that the Project achieves LEED Silver certification.

(P-32) For the benefit of the residents of the City of Ann Arbor and goals of the Planned Unit Development Ordinance, the DEVELOPER will make a contribution of \$500,000 to the CITY affordable housing fund prior to the issuance of building permits.

(P-35) DEVELOPER is the sole title holder in fee simple of the land described below except for any mortgage, easements and deed restrictions of record and that the person(s) signing below on behalf of DEVELOPER has (have) legal authority and capacity to enter into this agreement for DEVELOPER.

(P-36) Failure to construct, repair and/or maintain the site pursuant to the approved site plan and/or failure to comply with any of this approved development agreement's terms and conditions shall constitute a material breach of the Agreement and the CITY shall have all remedies in law and/or in equity necessary to ensure that the DEVELOPER complies with the approved site plan and/or the terms and conditions of the approved development agreement. The DEVELOPER shall be responsible for all costs and expenses including reasonable attorney fees incurred by the CITY in enforcing the terms and conditions of the approved site plan and/or development agreement.

(P-37) In addition to any other remedy set forth in this Agreement or in law or equity, if DEVELOPER fails to make a timely or full payments to the CITY as set forth elsewhere in the Agreement to the CITY in the agreed upon manner, any unpaid amount(s) shall become a lien, as provided under Ann Arbor City Code and recorded with the Washtenaw County Register of Deeds, against the land described below and may be placed on the CITY tax roll as a single lot assessment, or if the development is converted to condominium ownership, every owner of a portion of the property shall pay a pro-rata share of the amount of the payments attributable to each condominium unit. If the unpaid amount(s), in whole or in part, has been recorded as a lien on the CITY'S tax roll and with the Washtenaw County Register of Deeds, upon payment of the amount in full along with any penalties and interest, the CITY, upon request, will execute an instrument in recordable form acknowledging full satisfaction of this condition.

(P-38) To pay for the cost of recording this Agreement with the Washtenaw County Register of Deeds, and to pay for the cost of recording all documents granting easements to the CITY.

THE CITY HEREBY AGREES:

(C-1) In consideration of the above undertakings, to approve the The Glen Mixed Use Development.

(C-2) To use the park contribution described above for improvements to Riverside Park, Broadway Park, Fuller Park, or the Farmers Market.

(C-3) To use the \$ 42,540 contribution for traffic mitigation measures at the Glen Avenue and East Ann Street and Glen Avenue and Catherine Street intersections.

(C-4) To use the affordable housing contribution described above for the provision of affordable housing within the CITY.

(C-5) To provide timely and reasonable CITY inspections as may be required during construction.

(C-6) To record this agreement with the Washtenaw County Register of Deeds.

GENERAL TERMS

Both the DEVELOPER and the CITY agree as follows:

(T-1) This agreement is not intended to create a contractual right for third parties.

(T-2) This Agreement and any of its terms, conditions, or provisions cannot be modified, amended, or waived unless in writing and unless executed by both parties to this Agreement. Any representations or statements, whether oral or in writing, not contained in this Agreement shall not be binding on either party.

(T-3) This Agreement and any of its terms or conditions shall not be assigned or transferred to any other individual or entity unless prior approval of the CITY is received. Such approval shall not be withheld unreasonably.

(T-4) The obligations and conditions on the DEVELOPER, as set forth above in this Agreement and in the approved site plan, shall be binding on any successors and assigns in ownership of the following described parcel:

legal description(s) to be inserted here

(T-5) In addition to any other remedy in law or in equity failure to comply with all of the above paragraphs on the part of the DEVELOPER, or any part of the approved site plan, in part or in whole, shall give the CITY adequate basis and cause to issue a stop work order for any previously-issued building permits and shall be an adequate basis and cause for the CITY to deny the issuance of any building permits, certificates of occupancy, or any other permits unless and until the CITY has notified the DEVELOPER in writing that the DEVELOPER has satisfactorily corrected the item(s) the DEVELOPER has failed to perform.

(T-6) This agreement shall be interpreted, enforced and governed under the laws of the State of Michigan and Ann Arbor City Code.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day first above written.

CITY OF ANN ARBOR, MICHIGAN
301 East Huron Street
Ann Arbor, Michigan 48107

Witnesses:

By: _____
Christopher Taylor, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Approved as to Substance:

Howard S. Lazarus, City Administrator

Approved as to Form:

Stephen K. Postema, City Attorney

Witness:

By: _____
Name, Title

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

On this _____ day of _____, 20___, before me personally appeared Christopher Taylor, Mayor, and Jacqueline Beaudry, Clerk of the City of Ann Arbor, a Michigan Municipal Corporation, to me known to be the persons who executed this foregoing instrument, and to me known to be such Mayor and Clerk of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the free act and deed of said Corporation by its authority.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

On this _____ day of _____, 20___, before me personally appeared _____, to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the foregoing instrument as his free act and deed.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

DRAFTED BY AND AFTER RECORDING RETURN TO:
Ann Arbor Planning & Development Services
Post Office Box 8647
Ann Arbor, Michigan 48107
(734) 794-6265

The Glen PUD Supplemental Regulations

Section 1: Purpose

It is the purpose of the City Council in adopting these regulations to provide for the coordinated and unified development of these five parcels in harmonious integration with the surrounding neighborhood and presenting a unified development of mixed-uses.

These regulations seek to promote development of a mix of desirable uses arranged in an innovative and efficient manner that advances the City's land use plans and policies, and revitalizes and provides service to the neighborhood and the City as a whole.

Section 2: Applicability

The provisions of these regulations shall apply to the property described as follows ("Property"):

Commencing at the monumented intersection of the centerline of Glen Avenue and the centerline of Ann Street of Block 2 North, Range 13 East, Eastern Addition to the Village (now City) of Ann Arbor, according to the Plat thereof, recorded in Liber 'P' of Deeds, Page 4, Washtenaw County Records, thence N 89°56'09" W 33.00 feet along the center line of said Ann Street (66.00' wide); thence N 00°03'59" W 33.00 feet parallel with and 33.00 feet West of the center line of Glen Avenue (66.00' wide) to the SE corner of Lot 8 of said Plat; thence N 89°56'09" W 111.95 feet along the South line of said Lot 8; thence N 00°03'59" W 132.00 feet parallel with the West line of Glen Avenue; thence S 89°56'09" E 45.95 feet parallel with the North line of Ann Street; thence N 00°03'59" W 133.09 feet parallel with West line of Glen Avenue; thence S 89°54'28" E 66.00 feet along the South right-of-way line of Catherine Street(66.00' wide); thence S 00°03'59" E 265.06 feet along the West right-of-way line of said Glen Avenue to the POINT OF BEGINNING. Being a part of Lots 5, 6, 7, & 8 of Block 2 North, Range 13 East, Eastern Addition to the Village (now City) of Ann Arbor, according to the Plat thereof, as recorded in Liber 'P' of Deeds, Page 4, Washtenaw County Records, containing 0.54 acres of land, more or less, being subject to easements and restrictions of record, if any.

TOGETHER WITH:

A non-exclusive easement for a common driveway as evidenced by instrument recorded in Liber 1964, page 418, Washtenaw County Records.

SUBJECT TO:

Easement contained in Warranty Deed recorded October 21, 1985 in Liber 2012, Page 899.

Benchmark #1

Railroad spike in East face of utility pole at the SW corner of Glen and Ann.
Elevation = 854.59 (NAVD88)

Benchmark #2

Top of west side concrete light pole base at the SE corner of Glen and Catherine.
Elevation = 847.92 (NAVD88)

Further, the provisions of these regulations shall be adopted and incorporated into The Glen Planned Unit Development Zoning District. These regulations, however, are intended to supplement only those provisions in the City Codes that may be modified as a part of a PUD and shall not be construed to replace or modify other provisions or regulations in the City Codes.

Section 3: Findings

During the public hearings on this Planned Unit Development Amendment, the Planning Commission and City Council determined that:

- (A) It is desirable to develop the property described above for a nine-story mixed use building containing conference, reception, and meeting space, first floor neighborhood retail and restaurant space, community gathering areas, hotel rooms and services, apartments and underground parking.
- (B) The surrounding neighborhood contains University of Michigan facilities to the east across Glen Street and to the north across Catherine Street, and abuts historic houses and modern apartments in the Old Fourth Ward Historic District to the south and west.
- (C) It is in the best interest of the surrounding properties and the City of Ann Arbor that the developer clean up environmental contamination on the site to provide retail and restaurant space; meeting, conference and reception space; high quality hotel space; and apartments to serve City residents and the many visitors to the City of Ann Arbor and the University of Michigan Medical Center. The project will have a beneficial effect on, and will not adversely affect, the surrounding properties or the City, in terms of public health, safety, or welfare.
- (D) The PUD zoning district provides:
 - Innovative design including hotel-like amenities to apartment dwellers, space for conference, meeting or personal functions, reestablished

commercial uses on the ground floor, and a design that steps down on the ends to reduce the building mass;

- Economical land use by cleaning up existing environmental site contamination from a dry cleaner and a gas station formerly located on the site, and providing a variety of services in one location in an energy efficient building that meets LEED Silver standards;
- Hotel, retail, and restaurant employment opportunities and shopping particularly suited to the needs of the residents of the city;
- The reuse of an existing vacant site which contributes to the desired character and form of an established neighborhood by providing a transition from single- and multi-family residential structures in the Old Fourth Ward neighborhood to the large University of Michigan buildings across Glen and Catherine Streets.

(E) The parcel described above meets the standards for approval as a Planned Unit Development, and the regulations contained herein do not constitute the granting of special privilege nor deprivation of property rights.

Section 4: PUD Regulations

(A) Permitted Principal Uses of the development as depicted in the attached Site Plan shall be:

1. Lower Levels. Vehicular and bicycle parking.
2. Ground Floor. Not less than 5,000 square feet of floor area will be any combination of: retail sales; restaurant or bar; and/or personal or business services. The remainder of the ground floor may include those uses or hotel. Hotel ("Hotel") includes: guest rooms; balconies and terraces; common areas; lobbies; fitness centers; meeting, conference, reception and banquet facilities; and related kitchens and support services. All other uses, including office and medical/dental, are prohibited.
3. Second Level. Hotel; restaurant or bar.
4. Third through Seventh Levels. Hotel.
5. Eighth and Ninth Levels. Multiple-family dwellings; hotel. Multiple-family dwelling units may be made available for short or long term occupancy, or sale. Multiple family dwelling units are subject to rental certification requirements of the City of Ann Arbor. Hotel uses may not exceed 932 square feet in floor area.
6. Penthouse. Mechanical systems, telecommunication devices, and antenna.

(B) Permitted Accessory Uses shall be:

1. Home occupations only in multiple-family dwellings.
2. Special events requiring a temporary outdoor tent. Temporary use of tents shall not exceed a period of one week per use, and a maximum of eight occurrences per calendar year.

(C) Setbacks

North (Catherine Street): 0 feet

East (Glen Avenue): 0 feet

South (East Ann Street): 0 feet

West: 0 feet

(D) Height. Maximum of nine-stories plus a penthouse, not to exceed 109 feet, four inches.

(E) Lot Size. Minimum and maximum 23,573 square feet (0.54 acres).

(F) Floor Area Ratio. Maximum 590.4%.

(G) Parking. 203 lower level vehicle spaces, plus 49 valet (double-parked) spaces. 8 of the 203 spaces are reserved for parking controlled solely by Angelo's restaurant or its successors. 34 bicycle parking spaces: 18 Class A Spaces on Level L1, 6 Class B at the corner of Catherine and Glen, and 10 Class B spaces near the corner of Glen and Ann.

(H) Landscaping, screening, and buffers.

1. Conflicting Land Use Buffer -- There is a 9-foot conflicting land use buffer on the north side of the proposed trash/recycle area. Four arborvitae are required in the 9-foot buffer. No buffer is required on the west side of the proposed trash/recycle area because it abuts the neighboring trash enclosure. Both enclosures will be contained by 8-foot masonry walls.

2. 10 street trees are required as shown on the site plan.

(I) Site Access. One curb cut shall be permitted on East Ann Street.

(J) Architectural Design.

1. Exterior Materials -- Principle building materials shall be brick, stone, cast stone, precast concrete, metal and glass. Panel brick and EIFS are not permitted.

2. Entrances -- All ground level spaces shall include entrances adjacent to the pedestrian walkway on either Glen, East Ann or Catherine.
3. Massing -- The building shall include an identifiable base not more than two stories tall with a horizontal cornice element that separates the base from upper stories. The building massing shall step back on levels 8 and 9 to reduce the visual mass of the building.
4. Street Level -- The first level shall include large glass elements facing the pedestrian sidewalk on Glen, Ann and Catherine. The building corners closest to Glen and East Ann, and to Glen and Catherine, shall be setback to include enhanced open space at each corner. Outdoor seating shall be allowed as shown on the site plan.
5. Screening -- All mechanical units and solid waste shall be screened from view from adjacent properties.

Prepared by Jill Thacher